

General Public Comment for July 12, 2023 Board of Appeals Hearing

I respectfully submit this general public comment on two matters previously before the Board, and further reference my recently published article also addressing these matters:

<https://brokeassstuart.com/2023/07/05/safeguarding-san-franciscos-trees-the-urgent-need-for-city-wide-reforms/>

Appeal No. 21-076, Klipp vs. San Francisco Public Works, Bureau of Urban Forestry

At the January 26, 2022, hearing on this matter, DPW and BART promised a number of mitigations to the Appellant, and before this Board, under oath. In relevant part:

1. Public Works agreed to allow the in-lieu replacement fees related to this permit to go to greening in and around the corridors adjacent to impacted BART stations. Within 6 months, BART will work with DPW to identify viable basins that overlap with Community Benefits Districts areas of responsibility and, by partnering with CBDs, maximize those fees toward additional tree planting, as well as invest in green workforce development; and
2. BART committed to \$25k in capital investment toward a Pilot Project, "Pop Out" tree basins, along the Market Street Corridor.

It has been nearly a year and a half since that hearing and DPW's promises. Starting around April or May of 2022, BART committed a Project Manager to hold monthly meetings with all stakeholders to discuss progress on construction and these mitigations. I have attended nearly every one of these meetings for over a year, usually at personal expense since I am self-employed.

- As it promised, BART did the work to forge relationships with CBDs and broached the idea of CBDs watering street trees in their areas of responsibility. At the monthly meetings, however, BART made clear to DPW that, since street tree planting and maintenance is DPW's jurisdiction, BART needed DPW's partnership to move this mitigation forward with those CBDs. For over a year, DPW did nothing. In the last couple of months, DPW threw together a general list of empty basins on the Market Street corridor. It has done nothing else to help BART or further this mitigation.
- With regard to the Pilot Project, DPW has done nothing, other than vaguely talk about a truck that could remove mature trees planted in the ground. This is not only nothing close to what was discussed, it fails to address the myriad reasons for the proposed innovations in the first place, including limited space and growing trees for replanting.

At the monthly meetings and via numerous emails, I have *repeatedly begged* DPW for progress on these items. I have asked the City's Urban Forester - Chris Buck, Nick Crawford - Acting BUF Superintendent, and finally Carla Short - Acting DPW Director, for *anything resembling a plan*, ideally with dates and deliverables. I have received nothing despite

repeated requests, and have now completely given up on the idea that DPW will *ever* do what it promised it would do. With nowhere left to beg, I submit this comment.

I understand this Board does not retain jurisdiction, and lacks authority to compel DPW to keep its promises. The Board may be concerned, however, with Public Officials that come before it and make promises to Appellants, under oath, then leave the Hearing Room and abandon those promises, along with the Appellants who relied on them in good faith - and spent a month over the 2021 Christmas holiday negotiating those mitigations. Accordingly, I respectfully request that this Board invite DPW to come before it and provide a report regarding its progress, or lack thereof, on the mitigations it promised in this appeal.

Appeal No. 19-075 Klipp vs. San Francisco Public Works, Bureau of Urban Forestry In this appeal, the Board granted my appeal and ordered the issuance of the permit subject to conditions, specifically: “that the Bureau of Urban Forestry plants six new street trees in the Tenderloin area that are 24-inch box size, within six months of this decision; further that these new street trees are to be paid for by the determination holder.”

We now know that BUF did not plant six new trees that are 24-inch box size within six months of this decision. Instead, FUF planted several dozen 15 gallon trees in the Tenderloin more than two years later, and DPW retroactively designated 6 of those as the Tesla trees. After DPW was compelled to reveal this to the Board, I submitted a records request to DPW regarding how and when Tesla was invoiced for the trees for which this Board ordered it to pay. Through that records request, I learned that Tesla was not even invoiced for those trees until January 26, 2023 - 3 years and 3 months after the Board’s decision, and at least 3 months after the supposed Tesla trees were planted. See <https://sanfrancisco.nextrequest.com/requests/23-424>

Again, I understand the Board does not retain jurisdiction. However, it would seem in the Board’s interest that the conditions on which it grants an appeal are followed by any party, let alone a City Department. Accordingly, I would request that DPW additionally be invited to provide further information on whether or not it actually complied with the conditions that this Board imposed on the permit at issue in this appeal.

I do not make this comment and these requests lightly. As a former public servant, I need to believe that our City leaders and Departments will keep promises they make under oath, will adhere to the conditions required in the issuance of permits, and that the Board’s authority is not undermined by the erosion of public trust when these things do not happen.

Respectfully submitted, /s/ Joshua Klipp